

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA**

Case No. 3:20-cv-00173-JMK

DISABILITY LAW CENTER OF ALASKA; NATIVE PEOPLES ACTION
COMMUNITY FUND; ALASKA PUBLIC INTEREST RESEARCH GROUP;
ALEIJA STOVER; and CAMILLE ROSE NELSON,

Plaintiffs,

ALASKA COMMUNITY ACTION ON TOXICS, the ALASKA CENTER
EDUCATION FUND, and PLANNED PARENTHOOD VOTES NORTHWEST
AND HAWAII,

Intervening Plaintiffs,

v.

KEVIN MEYER, Lieutenant Governor of Alaska;
and STATE OF ALASKA, DIVISION OF ELECTIONS,

Defendants.

**HONEST ELECTIONS PROJECT'S [UNOPPOSED] MOTION FOR
LEAVE TO FILE AMICUS BRIEF IN SUPPORT OF DEFENDANTS**

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The Honest Elections Project respectfully asks this Court for leave to file the attached amicus brief in support of Defendants’ opposition to Plaintiffs’ Motion for Preliminary Injunction. Plaintiffs do not oppose the filing of this amicus brief. Defendants were unable to provide a position about the filing of this amicus brief.

INTEREST OF PROPOSED AMICUS CURIAE¹

The Honest Elections Project is an independent, nonpartisan organization devoted to supporting the right of every lawful voter to participate in free and honest elections. Through public engagement, advocacy, and public-interest litigation, the Honest Elections Project defends the fair, reasonable measures that voters and their elected representatives put in place to protect the integrity of the voting process. The Honest Elections Project supports common sense voting rules and opposes efforts to reshape elections for partisan gain. It thus has a significant interest in this important case.

ARGUMENT

Federal district courts have “broad discretion” to allow briefing by an *amicus curiae*. *Katelnikoff v. U.S. Dep’t of Interior*, 657 F. Supp. 659, 661 n.2 (D. Alaska 1986). Generally, a court may allow an amicus brief where it would “assist[] in a case of general public interest, supplement[] the efforts of counsel,

¹ No party’s counsel authored the attached brief in whole or in part or contributed money to fund the brief’s preparation or submission.

and draw[] the court’s attention to law that has escaped consideration.” *See Miller-Wohl Co. v. Comm’r of Labor & Indus.*, 694 F.2d 203, 204 (9th Cir. 1982) (citing 3A C.J.S. *Amicus Curiae* § 6, at 427 (1973)). Participation as *amicus curiae* is also warranted when the perspective of the *amicus curiae* is “sufficiently different from that of the named parties.” *Katelnikoff v. U.S. Dep’t of Interior*, 657 F. Supp. 659, 661 n.2 (D. Alaska 1986).

When exercising their discretion, courts “err on the side of granting leave.” *Neonatology Assocs., P.A. v. Comm’r*, 293 F.3d 128, 133 (3d Cir. 2002). As then-Judge Alito explained, “If an amicus brief that turns out to be unhelpful is filed, the [court], after studying the case, will often be able to make that determination without much trouble and can then simply disregard the amicus brief. On the other hand, if a good brief is rejected, the [court] will be deprived of a resource that might have been of assistance.” *Id.* Notably, no district court has ever denied the Honest Elections Project leave to file an amicus brief, and the Honest Elections Project recently received leave to file in three cases similar to this one. *See* Doc. 49, *Pavek v. Simon*, No. 0:19-cv-3000 (D. Minn. Mar. 26, 2020); Doc. 170 at 51, *Democratic Nat’l Comm. v. Bostelmann*, No. 3:20-cv-249 (W.D. Wis. Apr. 2, 2020); Notation Order, *League of Women Voters of Ohio v. LaRose*, No. 2:20-cv-1638 (S.D. Ohio Apr. 2, 2020).

Here, too, the Honest Elections Project's participation as *amicus curiae* will assist in a case of public interest, supplement the efforts of counsel, and draw the court's attention to law that may escape consideration otherwise. *See Miller-Wohl Co.*, 694 F.2d at 204. The Honest Elections Project's amicus brief makes two major points of law. First, that Alaska's decision to send absentee ballot applications to those over 65 years of age does not in any way implicate fundamental rights, nor does it harm Plaintiffs' voting rights. Second, the *Purcell* Doctrine, established precedent from the United States Supreme Court, precluded the issuance of an injunction by this Court. Both points are sufficient reasons to deny Plaintiffs' Motion for Preliminary Injunction.

CONCLUSION

For the foregoing reasons, the Honest Elections Project respectfully requests the Court to grant this motion and permit the Honest Elections Project to file the attached amicus brief.

DATED this 3rd day of August, 2020.

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I certify that on August 3, 2020, a copy of
the foregoing was served electronically on:

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